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June 2, 2009

**VIA FACSIMILE (973) 645-3841**

**ORDER ON ORAL MOTION**

Hon. Claire C. Cecchi, U.S.M.J.  
United States District Court  
District of New Jersey  
M.L. King, Jr. Federal Bldg. and U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07102

Re: *Burke, et al. v. Township Council of the Township of Wayne, et al.*  
Civil Action No.: 08-6108

Dear Judge Cecchi:

This firm represents Defendants, Township Council and Mayor of the Township of Wayne and the Planning Board of the Township of Wayne, with respect to only Count III of the Complaint, which seeks damages for alleged violations of 42 U.S.C. § 1983. Pursuant to Your Honor's directives set forth in LITE, N.J. FEDERAL PRACTICE RULES, Appendix 2, Survey of Judicial Officers, p. 626 (GANN 2009), and in accordance with our conversation with Your Honor's law clerk, we respectfully submit via facsimile this letter to confirm that Plaintiffs have consented to Defendants' request to file a responsive pleading to the Complaint by Thursday, June 4, 2009.

By way of brief background, on December 11, 2008, Defendants removed this matter from the Superior Court of the State of New Jersey, Law Division, Passaic County, pursuant to 28 U.S.C. § 1441. Plaintiffs filed a motion for remand on January 9, 2009, which was originally returnable on February 2, 2009, but was extended to March 2, 2009, because this firm was retained in or about early February after the original deadline to file opposition to Plaintiffs' motion had passed.

While recently reviewing Pacer, we discovered that a responsive pleading had not been filed in December in accordance with Rule 81(c) of the Federal Rules of Civil Procedure after the case was removed. Immediately after discovering that issue, we contacted Plaintiffs' counsel and obtained consent for Defendants to file responsive pleadings to all counts of the Complaint by June 4, 2009. Accordingly, with Plaintiffs' consent, Defendants propose to file two responsive pleadings on June 4, 2009; one by and through the township attorney with respect to

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Hon. Claire C. Cecchi, U.S.M.J.  
June 2, 2009  
Page 2

Counts I and II of the Complaint; and another by and through the undersigned with respect to Count III of the Complaint.

If Your Honor should have any questions or would like to further discuss this matter, then we shall make ourselves available at Your Honor's convenience.

Respectfully submitted,

MCELROY, DEUTSCH, MULVANEY & CARPENTER, LLP

RYAN P. MULVANEY

cc: R. William Potter, Esq. (via facsimile – (609) 921-2181)

defendants' request to file  
responsive pleadings by  
June 4, 2009 is hereby granted

**SO ORDERED**

*s/Claire C. Cecchi*

**Claire C. Cecchi, U.S.M.J.**

**Date:** June 3, 2009